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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1773 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SURESHBHAI RAMCHAND SAVARIYA

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA for Petitioner

MR SUDANSHU PATEL AGP for Respondent No. 1

MS DAWAWALA Advocate for Central Govt.- Respdt No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/06/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 3rd March, 1999 made by the District Magistrate, Navsari under the powers conferred upon him under Sub-section 2 of Section 3 of the Prevention of Black-marketing and Maintenance of Supply of Essential Commodities Act, 1980 [hereinafter referred to as, 'the Act']. The only contentions raised are (a) the representation made against the impugned order of detention to the District Magistrate on 23rd February, 1999 was not forwarded by him to the Central Government. The said inaction of the District Magistrate should be fatal to the order of detention; (b) the representations made have not been expeditiously attended to by the State Government and the Central Government, and (c) the order of detention, the grounds of detention and the supporting material all are in Gujarati a language not known to the petitioner. The petitioner being a Hindi speaking person, does not understand Gujarati and the petitioner's right to effective representation, therefore, had been adversely affected vitiating the order of detention.

In answer to the third contention, the District Magistrate has stated that at the time of inspection, the petitioner's statement was recorded in Gujarati and was explained to him in Hindi and that the petitioner knows Gujarati well, he understands the language and can converse in Gujarati. It is also contended that had the petitioner been unable to understand Gujarati language, he would have taken such a contention in the representation itself which he has not done.

It is true that the petitioner has been living in Navsari in Gujarat and has been doing business there. Further, the petitioner has not taken contention that he does not know Gujarati. It should, therefore, be inferred that petitioner knows Gujarati well. However, upon perusal of the record, I find that petitioner has written receipt of the detention order and the accompanying material in Hindi. Besides, in the affidavit referred to hereinabove, the District Magistrate himself has stated that the statements recorded in Gujarati had to be explained to the petitioner in Hindi. In my view, therefore, it can legitimately be inferred that the petitioner does not know Gujarati language well, and therefore, he had to be explained the statements recorded in Gujarati, in Hindi. Besides, being able to understand and converse in a particular language is not the same as is being able to read the language and understand the contents of the matter. With a view to enabling the detenu to make an effective representation, it is necessary that not only

he is able to read language, he should also be able to understand the contents thereof. In the present case, I believe that the detaining authority has failed to establish that petitioner, in fact, knows the Gujarati language and he is able to read and understand the contents of the matter. It is well-settled proposition of law that unless the detenu is in a position to make an effective representation against the order of detention, the continued detention of such detenu is vitiated.

For the reasons recorded hereinabove, the petition is allowed. The impugned order dated 3rd February, 1999; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless he is required to be detained in some other case, be released forthwith.

Joshi/Prakash*